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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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2012 FEB -8 P 1:23

AZ CORP COMMISSION
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Arizona Corporation Commission

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APPLICATION OF LITTLE PARK WATER
COMPANY, INC., AN ARIZONA
CORPORATION, FOR AUTHORITY TO
INCUR LONG-TERM DEBT FROM JP
MORGAN CHASE & CO.

DOCKET NO. W-02192A-10-0395

RESPONSE TO STAFF REPORT

1 Little Park Water Company, Inc., ("Little Park") hereby responds to the January 30,
2 2012, Staff Report in the above-captioned docket.

3 **1. SUPPLEMENTAL RESPONSE CONCERNING FINDING OF FACT NO. 27**

4 The Staff Report concluded that "the Affidavit of Stevan Gudovic does not comply with
5 the requirement of Decision No. 72667 to explain each of the four references to a loan identified
6 in Finding of Fact No. 27 of Decision No. 72667." Little Park believes that Mr. Gudovic's
7 affidavit was fully responsive. Mr. Gudovic testified that there had been no loans between Little
8 Park and Chase Bank, only a loan with Big Park Water Company, Inc. ("Big Park"). Further, the
9 affidavit attached a letter from Chase Bank, which confirmed that there have never been any
10 loans between Little Park and Chase Bank. Nevertheless, Little Park submits the attached
11 Supplemental Affidavit of Stevan Gudovic, which specifically discusses the four references in
12 Finding of Fact No. 27 and further confirms that there was no loan between Little Park and
13 Chase Bank.

14 **2. LOAN TERMS**

15 As discussed at the November 8, 2012, Open Meeting concerning this docket, the
16 commitment from Chase Bank to provide financing for Little Park expired because of the length
17 of this proceeding. Little Park disclosed that it had fortunately obtained a commitment from a
18 new lender, SunWest Bank.

1 In compliance with Decision No. 72667, on December 6, 2011, Little Park filed a copy of
2 the executed financing documents with SunWest Bank, including the executed Promissory Note.

3 The Promissory Note fixes the interest rate at 6.0% for the first four years of the loan,
4 which is 100 basis points below the rate approved by Decision No. 72667. The Promissory Note
5 then allows the rate to be reset, based on applicable interest rates as of November 15, 2015.

6 When it became apparent to Little Park that Chase Bank would not renew its
7 commitment, Mr. Gudovic negotiated diligently to obtain a fixed interest rate for seven years at a
8 rate not to exceed 7.0%. The lender would not commit to a loan on these terms.

9 The earliest that the interest rate can be reset is on November 15, 2015. If the bank does
10 determine that a reset above 7.0% is warranted, and the loan has not been paid off through hook-
11 up fees, then Little Park would apply to the Commission for a waiver of the 7.0% cap. In the
12 alternative, if less expensive funds were available from another lender, Little Park would apply
13 for approval of a debt refinancing.

14 **3. BIG PARK AND LITTLE PARK MERGER**

15 Decision No. 72667, dated November 17, 2011, in the above-captioned docket required
16 Little Park to file:

17 By January 6, 2012, a document describing in detail the actions necessary for
18 Little Park Water Company, Inc. and Big Park Water Company, Inc. to merge
19 into and operate as one public service corporation and, further, analyzing the
20 positives and negatives of combining Little Park Water Company, Inc. and Big
21 Park Water Company, Inc. into one public service corporation.

22 On January 6, 2012, Little Park filed the required document.

23 Little Park hereby provides its position concerning whether a merger between Big Park
24 and Little Park would be in the public interest. Little Park is opposed to merging the two
25 companies. There would be no significant advantages to such a merger, but many disadvantages.

- 26 a. Little Park's rates are generally lower than Big Park's.
- 27 b. Little Park and Big Park have drastically different hook-up fee structures for new
28 customers. Combining the companies could cause customer confusion
29 concerning why one customer would pay a \$1,320 hook-up fee for a new one-inch

meter and another customer pays a \$3,300 hook-up fee for the same sized meter. This could cause more inquiries for Commission Staff to handle.

c. Except for an emergency interconnection, the two systems operate separately, with separate water supply, treatment, and distribution facilities. Even in an emergency, because of differing system elevations, water can only flow from Big Park to Little Park.

d. The Little Park water system was built and owned by the original developer without any inspection and proper supervision. The system was then owned by the developer/homeowner association. Due to the poor quality of the initial construction, the Little Park system requires significantly more maintenance per customer than does the Big Park system. If the systems were consolidated, Big Park customers would be forced to subsidize Little Park customers for their higher maintenance expense.

e. Because the two companies are already jointly administered, there would be no material cost savings as a result of a consolidation.

f. The cost of a prosecuting a merger application would be a significant expense, which would presumably be recoverable from customers.

g. Preparing and prosecuting a merger application could divert management's time and attention from more important short and long-term customer concerns.

h. Eliminating separate books could result in the loss of separate operational and financial data. The Commission would lose the ability to exercise regulatory oversight and control as it pertains to the currently separate systems, which would make it less able to evaluate the effectiveness and efficiency of each system.

i. Consolidating the two systems would conflict with historic cost-of-service principles, where rates are set based on the costs of serving discrete geographical areas. As a result, one group of customers could be forced to subsidize another.

1 Further, blending the rate schedules could distort price signals to customers,
2 which could lessen the incentives to conserve water.

3 **4. NEED FOR HEARING**

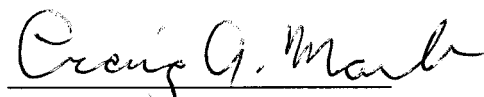
4 With this supplemental filing, Little Park believes that it has provided the Commission all
5 the information needed to answer any questions raised in Decision No. 72667. The purpose of
6 this docket was to allow Little Park, a Class E water company, to obtain long-term financing to
7 replace a loan obtained from Big Park to construct required arsenic treatment facilities. These
8 facilities were originally intended to be financed through hook-up fees from Camp Soaring
9 Eagle, which was to be a camp for terminally ill children. Through no fault of Little Park, Camp
10 Soaring Eagle abandoned its project and defaulted on its payment obligation.

11 After 14 months, the Commission finally approved Little Park's financing request.
12 Because of the length of the proceeding, the originally contemplated lender would no longer
13 commit to loan the requested funds. This forced Little Park to obtain a commitment from
14 another lender, SunWest. Little Park filed the executed SunWest loan documents with the
15 Commission on December 6, 2011.

16 Because all questions concerning Little Park have been answered, Little Park asks that
17 Docket No. W-02192A-10-0395 be closed.

18 If the Commission determines that an additional hearing is still required, Little Park asks
19 that a procedural conference be scheduled to discuss the scope of the issues to be addressed in
20 any subsequent hearing.

21 Respectfully submitted on February 8, 2012, by:

22
23 
24

25 Craig A. Marks
26 Craig A. Marks, PLC
27 10645 N. Tatum Blvd,
28 Suite 200-676
29 Phoenix, Arizona 85028
30 Attorney for Little Park Water Company
31

1 **Original and 13 copies filed**
2 on February 8, 2012 with:

3
4 Docket Control
5 Arizona Corporation Commission
6 1200 West Washington
7 Phoenix, Arizona 85007
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9 **Copies emailed**


10 on February 8, 2012 to:

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12 Bridget Humphrey, Attorney
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15 1200 West Washington
16 Phoenix, Arizona 85007
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25 Utilities Division
26 Arizona Corporation Commission
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28 Phoenix, Arizona 85007
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30
31
32
33 By:


34 Craig A. Marks.

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE, Chairman
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BRENDA BURNS

APPLICATION OF LITTLE PARK WATER
COMPANY, INC., AN ARIZONA
CORPORATION, FOR AUTHORITY TO
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DOCKET NO. W-02192A-10-0395

**SUPPLEMENTAL AFFIDAVIT OF
STEVAN GUDOVIC**

1 1. My name is Stevan Gudovic.
2 2. I am the President of Little Park Water Company ("Little Park").
3 3. I have reviewed Decision No. 72667 dated November 17, 2011, in the above-
4 captioned docket.

5 **FINDING OF FACT NO. 27.**

6 4. The Decision required that Little Park file: "By November 30, 2011, a sworn
7 affidavit, with any attachments necessary for a full understanding, explaining each reference to a
8 loan from Chase Bank or any bank (and the interest thereon) described in Findings of Fact No.
9 27."

10 5. On November 30, 2011, I submitted an affidavit concerning this requirement.

11 6. I hereby supplement my affidavit as follows.

12 7. There were four specific references in Finding of Fact No. 27.

13 a. "*[A]n e-mail sent by Mr. Gudovic to an attorney for the Camp on*
14 *October 22, 2009, in which Mr. Gudovic proposed that the Camp*
15 *make interest-only payments each month until the Camp was ready*
16 *to install the water main line" and where he states, "We borrowed*
17 *money from Chase Bank to finish installation of the arsenic*
18 *treatment facility. As of July 30, 2009 our loan amount with Chase*
19 *Bank was \$117,642 with an interest rate of 4.9%From this*
20 *point forward, we will bill you on a monthly basis the same amount*
21 *which we pay to Chase Bank as interest on the principal."*

- 1 b. *"[A] December 10, 2009, letter sent by Little Park to the Camp*
2 *Soaring Eagle Foundation in which Little Park requested payment*
3 *of the full \$118,000 due under the LXA, 'without the interest*
4 *payment which we are incurring since September 2009.'"*
- 5 c. *"[A] January 14, 2010, Invoice sent by Little Park to the Camp*
6 *Soaring Eagle Foundation in which Little Park showed a total*
7 *amount due of \$120,745.35, which included \$1,945.35 in*
8 *'[i]nterest from August 1, 2009 to December 31, 2009' and the*
9 *following explanation of the interest: 'Little Park Water Company*
10 *is paying the interest on a monthly basis to our lender (Chase*
11 *Bank).'"*
- 12 d. *"[A] January 25, 2010, letter to its own attorney in which it*
13 *explained the history of the LXA situation with the Camp and*
14 *stated: 'We did collect the Arsenic Hook-up Fee from Verde Valley*
15 *School in the amount of \$68,000 and the balance we finalized with*
16 *equity and borrowed money from the local bank with the*
17 *understanding that Camp Soaring Eagle would fulfill their*
18 *obligation as dictated by the ACC. '"*

19 8. Little Park began construction of its arsenic-remediation facilities in 2008. Little
20 Park expected to receive a hook-up fee of \$118,000 from Camp Soaring Eagle, so it borrowed
21 \$118,000 from its corporate parent ("Big Park Water Company" hereafter referred to as "Big
22 Park") as partial construction funding, to be repaid by the expected hook-up fee. Neither party
23 expected this to be a long-term loan. Unfortunately, the Camp Soaring Eagle development was
24 abandoned, which forced Little Park to seek long-term financing. Once it was clear that Little
25 Park would not receive the promised hook-up fees from Camp Soaring Eagle, on September 27,
26 2010, Little Park filed for financing approval of a proposed loan from Chase Bank.

27 9. I own Big Park, which in turn owns Little Park Water. Big Park Water obtained
28 the funds through its existing line of credit from Chase Bank. In the communications referenced
29 in Paragraph 7 above concerning the \$118,000 and corresponding interest to be paid, I was
30 referring to the collective debt and interest obligations of the two companies. For purposes of
31 communicating with and concerning Camp Soaring Eagle, the details of the short-term
32 borrowings were immaterial; there was no need to identify which entity was actually borrowing
33 the funds.

1 10. As I discussed in my November 30, 2011, affidavit, there have never been any
2 loans between Little Park and Chase Bank, or any other entity other than Big Park.

3 **LOAN TERMS**

4 11. As we discussed at the November 8, 2012, Open Meeting concerning this docket,
5 the commitment from Chase Bank to provide financing for Little Park expired because of the
6 length of this proceeding. We disclosed that we had fortunately obtained a commitment from a
7 new lender, SunWest Bank.

8 12. In compliance with Decision No. 72667, on December 6, 2011, Little Park filed a
9 copy of the executed financing documents with SunWest Bank, including the executed
10 Promissory Note.

11 13. The Promissory Note from SunWest Bank fixes the interest rate at 6.0% for the
12 first four years of the loan, which is 100 basis points below the rate approved by Decision No.
13 72667. The Promissory Note then allows the rate to be reset, based on applicable interest rates
14 as of November 15, 2015.

15 14. On behalf of Little Park, when it became apparent that Chase Bank would not
16 renew its commitment, I negotiated diligently to obtain a fixed interest rate from a lender for
17 seven years at a rate not to exceed 7.0%. The lender would not commit to a loan on these terms.

18 15. The earliest that the interest rate can be reset is on November 15, 2015. If the
19 bank does determine that a reset above 7.0% is warranted, and the loan has not been paid off
20 through hook-up fees, then Little Park would apply to the Commission for a waiver of the 7.0%
21 cap. In the alternative, if less expensive funds were available from another lender, Little Park
22 would apply for approval of a debt refinancing.

23 **BIG PARK AND LITTLE PARK MERGER**

24 16. Decision No. 72667, dated November 17, 2011, in the above-captioned docket,
25 required Little Park to file:

26 By January 6, 2012, a document describing in detail the actions necessary for Little Park
27 Water Company, Inc. and Big Park Water Company, Inc. to merge into and operate as
28 one public service corporation and, further, analyzing the positives and negatives of

1 combining Little Park Water Company, Inc. and Big Park Water Company, Inc. into one
2 public service corporation.

3 17. On January 6, 2012, Little Park filed the required document.

4 18. I would like to supplement Little Park's response to provide Little Park's position
5 concerning whether a merger between Big Park and Little Park would be in the public interest.

6 19. I am opposed to merging the two companies. There would be no significant
7 advantages to such a merger, but many disadvantages.

8 a. Little Park's rates are generally lower than Big Park's.

9 b. Little Park and Big Park have drastically different hook-up fee structures
10 for new customers. Combining the companies could cause customer
11 confusion concerning why one customer would pay a \$1,320 hook-up fee
12 for a new one-inch meter and another customer pays a \$3,300 hook-up fee
13 for the same sized meter. This could cause more inquiries for
14 Commission Staff to handle.

15 c. Except for an emergency interconnection, the two systems operate
16 separately, with separate water supply, treatment, and distribution
17 facilities. Even in an emergency, because of differing system elevations,
18 water can only flow from Big Park to Little Park.

19 d. The Little Park water system was built and owned by the original
20 developer without any inspection and proper supervision. The system was
21 then owned by the developer/homeowner association. Due to the poor
22 quality of the initial construction, the Little Park system requires
23 significantly more maintenance per customer than does the Big Park
24 system. If the systems were consolidated, Big Park customers would be
25 forced to subsidize Little Park customers for their higher maintenance
26 expense.

- e. Because the two companies are already jointly administered, there would be no material cost savings as a result of a consolidation.
- f. The cost of prosecuting a merger application would be a significant expense, which would presumably be recoverable from customers.
- g. Preparing and prosecuting a merger application could divert management's time and attention from more important short and long-term customer concerns.
- h. Eliminating separate books could result in the loss of separate operational and financial data. The Commission would lose the ability to exercise regulatory oversight and control as it pertains to the currently separate systems, which would make it less able to evaluate the effectiveness and efficiency of each system.
- i. Consolidating the two systems would conflict with historic cost-of-service principles, where rates are set based on the costs of serving discrete geographical areas. As a result, one group of customers could be forced to subsidize another. Further, blending the rate schedules could distort price signals to customers, which could lessen the incentives to conserve water.

20. This ends my affidavit.

Stevan Gudovic

[illegible]

Subscribed and sworn before me on February __, 2012.

Name: _____ My Commission expires: _____

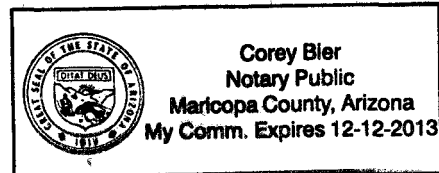
- 1 e. Because the two companies are already jointly administered, there would
2 be no material cost savings as a result of a consolidation.
- 3 f. The cost of a prosecuting a merger application would be a significant
4 expense, which would presumably be recoverable from customers.
- 5 g. Preparing and prosecuting a merger application could divert
6 management's time and attention from more important short and long-
7 term customer concerns.
- 8 h. Eliminating separate books could result in the loss of separate operational
9 and financial data. The Commission would lose the ability to exercise
10 regulatory oversight and control as it pertains to the currently separate
11 systems, which would make it less able to evaluate the effectiveness and
12 efficiency of each system.
- 13 i. Consolidating the two systems would conflict with historic cost-of-service
14 principles, where rates are set based on the costs of serving discrete
15 geographical areas. As a result, one group of customers could be forced to
16 subsidize another. Further, blending the rate schedules could distort price
17 signals to customers, which could lessen the incentives to conserve water.

18 20. This ends my affidavit.

19 
20
21 **Stevan Gudovic**

22
23
24 STATE OF Arizona)
25) ss.
26 COUNTY of Maricopa)

27
28 Subscribed and sworn before me on February 08, 2012.
29
30



31 Name:  My Commission expires: 12/12/2013
32